



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kathleen Tyrrell
Licata & Tyrrell
66 East Main Street
Marlton NJ 08053

MAILED

DEC 10 2010

OFFICE OF PETITIONS

In re Patent No. 7,785,622	: DECISION ON
Ito et al.	: APPLICATION FOR PATENT
Application No. 10/527710	: TERM ADJUSTMENT and
Issue Date: 08/31/2010	: NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date: 04/22/2005	: CERTIFICATE OF CORRECTION
Attorney Docket No. KUZ-0022	:

This is a decision on the “APPLICATION FOR PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R.1.705(d),” filed September 17, 2010, requesting that the patent term adjustment determination for the above-identified patent be changed from 694 days to at least an additional 42 days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On August 31, 2010, the above-identified application matured into US Patent No. 7,785,622 with a patent term adjustment of 694 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment pursuant to 35 U.S.C. § 154(b)(1)(A)(i – iv). Patentees aver that the patent term adjustment pursuant to 35 U.S.C. § 154(b)(1)(A)(i – iv) was incorrectly based upon the date of April 22, 2005, rather than the date of March 11, 2005, on which the national stage commenced under 35 U.S.C. § 371(b) or (f). In support of this assertion, Patentees cite to 1347 OG 50.

Initially it is noted that 1347 OG 50 is a “Notice Concerning Calculation of the Patent Term Adjustment Under 35 U.S.C. § 154(b)(1)(**B**) involving International Applications Entering the National Stage Pursuant to 35 U.S.C. § 371.” (Emphasis added). The applicable statute, 35 U.S.C. § 154(b)(1)(**A**), provides:

(A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to —

(i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after —

(I) the date on which an application was filed under section 111(a) of this title; or

(II) the date on which an international application fulfilled the requirements of section 371 of this title

(Emphasis added).

A review of the application file history confirms that the application fulfilled the requirements of 35 U.S.C. § 371 on April 22, 2005. Accordingly, the Office properly used April 22, 2005 as the date in calculating the adjustment pursuant to 35 U.S.C. § 154(b)(1)(A).

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions